

ELIZABETH P. BEAZLEY, CASB No. 138198
 elizabeth.beazley@kyl.com
 JAMES A. MARISSEN, CASB No. 257699
 james.marissen@kyl.com
 JENNIFER M. PORTER, CASB No. 261508
 jennifer.porter@kyl.com
 CHRISTOPHER R. FARNSWORTH, CASB No. 286992
 chris.farnsworth@kyl.com
 KEESAL, YOUNG & LOGAN
 A Professional Corporation
 400 Oceangate
 Long Beach, California 90802
 Telephone: (562) 436-2000
 Facsimile: (562) 436-7416

Attorneys for Specially Appearing Defendants
 WISDOM MARINE LINES, S.A, WISDOM MARINE
 LINES CO., LTD., and SAO WISDOM, S.A.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

ARABIAN GAS AND OIL DEVELOPMENT COMPANY, a Bahrain Corporation,) Case No. 4:16-cv-03801-DMR
)
) Related Case: 4:16-cv-03872-DMR
Plaintiff,)
)
vs.) DECLARATION OF JAMES A. MARISSEN
) IN SUPPORT OF SPECIALLY APPEARING
) DEFENDANTS' MOTION TO INCREASE
WISDOM MARINES LINES, S.A, a Panama) UNDERTAKING POSTED BY PLAINTIFF
Corporation, WISDOM MARINES LINES CO.,) WITH THE COURT
LTD., a Cayman Islands Corporation, and SAO)
WISDOM, S.A., a Panama corporation,)
)
Defendants.)
)
)

I, JAMES A. MARISSEN, declare as follows:

1. I am an attorney at law licensed to practice before this Court and am a shareholder with the law firm of Keesal, Young & Logan, attorneys for Specially Appearing Defendants WISDOM MARINE LINES, S.A, WISDOM MARINES LINES CO., LTD., and SAO WISDOM, S.A. ("Defendants") in this matter. I make this declaration on the basis of my personal knowledge, except for those items stated to be based upon information and belief, all of which I

1 believe to be true. If called upon to testify as a witness, I could and would testify as to the
2 competently thereto.

3 2. I submit this declaration in support of Defendants' Motion to Increase
4 Undertaking posted by Plaintiff with the Court.

5 3. I am informed and believe that Keesal, Young & Logan has the largest
6 admiralty practice on the west coast of the United States. It has offices in Long Beach, San Francisco,
7 Seattle, Anchorage, and Hong Kong. The firm regularly represents clients involved in the maritime
8 and transportation industry. KYL Partners are regularly honored by their peers to be "Best Lawyers"
9 for Southern California in the area of Admiralty/Maritime law.

10 4. I have specialized in maritime and admiralty litigation and arbitration since
11 being admitted to practice law in 1999. I have been admitted to practice in Australia, England,
12 California, and New York, and have been with Keesal, Young & Logan since 2008. My practice
13 includes conducting commercial, admiralty and international litigation and arbitration on behalf of
14 ship owners, charterers, freight forwarders, terminal operators, insurers, salvors, commodity traders
15 and other corporate clients in relation to arrest and attachment proceedings (particularly Rules B, C, D,
16 and F admiralty proceedings), charterparty and bill of lading disputes, cargo claims, maritime liens,
17 letter of credit disputes, marine insurance, personal injury, international trade, salvage and other
18 commercial disputes. I have particular expertise in conducting multi-jurisdictional litigation. I also
19 have extensive experience in emergency response to serious shipping casualties, collisions and
20 pollution incidents throughout the United States and the world. My practice also includes non-
21 contentious maritime work including drafting charterparty agreements, bill of lading terms, passenger
22 tickets and ship sale and purchase contracts. I have written published articles in various international
23 maritime law journals and am a speaker at seminars on shipping and trade matters in international
24 forums and universities.

25 5. As a litigation attorney and shareholder, I routinely manage litigation teams in
26 the defense of large maritime and commercial disputes. I supervised the defense of this matter on
27 behalf of the Defendants.

28 ///

1 6. On or about September 22, 2016, I reviewed the billing information for this
2 matter, including the number of hours expended by Keesal, Young & Logan on behalf of Defendants
3 responding to Plaintiff ARABIAN GAS AND OIL DEVELOPMENT COMPANY (“AGODCO”)
4 writ of attachment and attachment of the vessel M/V *GLOBAL FAITH* (“Vessel”)(“the Attachment”),
5 argument before this Court for orders quashing AGODCO’s writ of attachment and releasing the
6 Vessel from attachment, pursuing this Motion and Defendants’ forthcoming motion to damages for
7 wrongful attachment. As of August 31, 2016, Keesal, Young & Logan had spent more than 370 hours
8 addressing issues which arose by sole virtue of the writ of attachment and advancing motions for
9 orders quashing the writ of attachment. The majority of these hours were incurred by two partners,
10 Elizabeth P. Beazley and James A. Marissen, and two associates, Christopher R. Farnsworth and
11 Rachel A. Weitzman, and included the following activities: reviewing various pleadings regarding the
12 Verified Complaint and writ of attachment, numerous teleconferences and correspondence with
13 Defendants and their English counsel getting up to speed on the status of the dispute in London
14 arbitration., additional conferences and communications with Defendants and their English, Bahraini
15 and Taiwanese counsel to collect evidence supporting the motion to vacate the writ of attachments and
16 reviewing evidence, conducting relevant legal research (including but not limited to issues of subject
17 matter jurisdiction, standing, capacity to sue, set off, increase undertaking amount and damages for
18 wrongful attachment), preparing various extensive pleadings and declarations, attending a hearing
19 before this Court, related intra-office meetings and strategy sessions.

20 7. The briefing in relation to subject matter jurisdiction required significant legal
21 research and detailed analysis of this complex and somewhat novel area of the law, being namely the
22 scope of jurisdiction conferred by the Federal Arbitration Act in situations where the sole remedy
23 sought is attachment to secure a potential award for a pending arbitration counterclaim in a foreign
24 jurisdiction. Also, and generally speaking, the unique circumstances whereby California writ of
25 attachment law, and not federal maritime law, governed the attachment of the Vessel, presented
26 additional challenges to be addressed in Defendants’ motion and defense efforts. Defendants maintain
27 that the mandatory off-set as required under California Code of Civil Procedure section 483.015(b)
28 should have reduced AGODCO’s security demand to zero.

1 8. The average billing rate for the partners mentioned above is USD\$385 and for
2 the associates mentioned above is USD\$285 and US\$225 per hour respectively. The effective billing
3 rate for all of the attorneys who worked on this matter combined was \$309. These average billing
4 rates represented our standard billing rates for maritime matters at the time the fees were incurred.

5 9. Before submitting an invoice to Defendants, I reviewed the invoices and “wrote
6 off” time attributed to the file that I found to be inefficient or duplicative.

7 10. On or about September 22, 2016, I reviewed a summary of all attorneys’ fees
8 and disbursements invoiced in this matter arising from our representation of Defendants’ in this
9 action. Upon review of this summary, all of the attorneys’ fees and disbursements invoiced to
10 Defendants to date currently amount to US\$115,884.05.

11 11. On or about September 14, 2016, I was informed by Defendants’ English
12 counsel, Holman Fenwick Willan, and believe that its attorneys’ fees related solely to defending
13 AGODCO’s writ of attachment proceedings currently amount to US\$40,850. Defendants’ main (and
14 prevailing) argument that AGODCO had failed to discharge its burden that it was more likely than not
15 to succeed on its underlying counterclaim mandated a detailed review of the procedural status of the
16 London arbitration, a detailed review and recitation of the underlying facts of the dispute, as well as
17 coordination of Defendants’ legal arguments in support of its original claim and its defenses to
18 AGODCO’s counterclaim. As AGODCO’s underlying counterclaim is pending in London and
19 governed by English law, it was necessary for Defendants’ English counsel, Holman Fenwick Willan,
20 to be intimately involved in developing Defendants’ merits-based arguments and also required
21 extensive declarations both on points of law and relevant facts of the dispute.

22 12. On or about September 14, 2016, I was informed by Defendants’ English
23 counsel, Holman Fenwick Willan, and believe that Defendants’ Bahraini counsel, Amin Law Firm,
24 had incurred attorneys’ fees related solely to defending AGODCO’s writ of attachment proceedings in
25 the amount of US\$13,330. As the capacity of a foreign corporation to sue is determined by the law of
26 the country where the corporation is allegedly registered or existing, Defendants’ argument required
27 the retention of Bahraini counsel and significant assistance from Bahraini counsel both as to points of
28 Bahraini law and as to factual investigations of AGODCO’s corporate status.

1 13. On or about September 22, 2016, I was informed by Defendants' English
2 counsel, Holman Fenwick Willan, and believe that Defendants' Taiwanese counsel, Jheding
3 International Law Offices, had incurred attorneys' fees related solely to defending AGODCO's writ of
4 attachment proceedings in the amount of US\$1,000. In response to the Court's request for
5 supplemental briefing, Defendants' arguments required the retention of Taiwanese counsel and
6 significant assistance from them on this issue of whether English arbitration decisions are enforceable
7 in Taiwan as a matter of Taiwanese law.

8 14. On or about September 22, 2016, I was informed by Defendants' English
9 counsel, Holman Fenwick Willan, and believe that Defendants' appointed surveyor, Brookes Bell, had
10 incurred fees related solely to defending AGODCO's writ of attachment proceedings in the amount of
11 US\$740.00. To further support Defendants' merit-based arguments, Defendants' obtained a
12 declaration from their appointed marine surveyor, Brookes Bell, to refute AGODCO's claims
13 regarding alleged defects with the construction of the vessel concerned in the underlying dispute in the
14 London arbitration.

15 15. Attached hereto as Exhibit 1 is a true and correct copy of relevant excerpts
16 (Page 34, line 20 through page 37, line 1) of the transcript from the August 4, 2016 hearing on
17 Defendants' motion to dismiss Plaintiff's complaint and vacate the writ of attachment.

18 16. Based upon the information outlined above, I conclude that Defendants have
19 currently incurred potential wrongful attachment damages totaling USD\$186,804.05 as a result of
20 AGODCO's writ of attachment efforts.

21
22 Executed this 29th day of September, 2016, at Long Beach, California.

23 I declare under penalty of perjury under the laws of the United States of America that
24 the foregoing is true and correct.

25
26
27 /s/ James A. Marissen
28 JAMES A. MARISSEN

Case Name: *Arabian Gas and Oil Development Co v. Wisdom Marines Lines, et. al.*
Case No.: USDC, Northern District Case No: 4:16-cv-03801-DMR (related to 16-cv-03872)
KYL File No.: 7811-3

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is Keesal, Young & Logan, 400 Oceangate, Long Beach, California 90802.

On September 29, 2016, I served the foregoing documents described as **DECLARATION OF JAMES A. MARISSIN IN SUPPORT OF SPECIALLY APPEARING DEFENDANTS' MOTION TO INCREASE UNDERTAKING POSTED BY PLAINTIFF WITH THE COURT** on the parties in this action by placing a true copy thereof enclosed in a sealed envelope addressed as follows:

Frank C. Brucculeri, Esq.
Daniel F. Berberich, Esq.
KAYE, ROSE & PARTNERS
9100 Wilshire Blvd., Ste 420W
Beverly Hills, CA 90212
Ph. (310) 551-6555
Fax (310) 277-1200
Email: fbrucculeri@kayerose.com
dberberich@kayerose.com

Co-Counsel for Plaintiff ARABIAN GAS AND
OIL DEVELOPMENT COMPANY

George A. Gaitas, Esq.
Chalos & Co., P.C.
7210 Tickner Street
Houston, TX 77055
Ph. (713) 574-9582
Fax (866) 702-4577
Email: georgegaitas@chaloslaw.com

Co-Counsel for Plaintiff ARABIAN GAS AND
OIL DEVELOPMENT COMPANY

☒ BY CM/ECF: The document was electronically served on the parties to this action via the mandatory United States District Court of California CM/ECF system upon electronic filing of above-described document.

Executed on September 29, 2016 at Long Beach, California.

I declare under penalty of perjury under the laws of the State of California and United States of America that the foregoing is true and correct.

I declare that I am employed in the office of a member of the bar of this Court at whose direction the service was made.

/s/ Tammy Wade
TAMMY WADE